

1999 ASSEMBLY BILL 358

1 **AN ACT** *to renumber* 867.01 (3) (intro.) (except 867.01 (3) (title)) and 867.02 (2)
2 (intro.) (except 867.02 (2) (title)); *to renumber and amend* 867.01 (3) (a) and
3 867.02 (2) (a); *to amend* 30.541 (3) (d) 2. d., 214.37 (4) (k) 1., 215.26 (8) (e) 1.,
4 342.17 (4) (b) 4., 867.01 (1) (b), 867.02 (1) and 867.03 (1g) (intro.); and *to create*
5 865.202, 867.01 (3) (ac) (title), 867.02 (2) (ac) (title) and 867.03 (2m) of the
6 statutes; **relating to:** informal administration of estates and summary
7 procedures for settling estates.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 30.541 (3) (d) 2. d. of the statutes is amended to read:
9 30.541 (3) (d) 2. d. The limit in subd. 2. c. does not apply if the surviving spouse
10 proceeds under s. 867.03 (1g) and the total value of the decedent's solely owned

ASSEMBLY BILL 358**SECTION 1**

1 property in the state, including boats transferred under this subdivision, does not
2 exceed \$10,000 \$20,000.

3 **SECTION 2.** 214.37 (4) (k) 1. of the statutes is amended to read:

4 214.37 **(4)** (k) 1. An affidavit stating that the person has standing under s.
5 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment
6 of a decedent's estate or that the person is an heir of the decedent, or was guardian,
7 as defined in s. 880.01 (3), of the decedent at the time of the decedent's death, and
8 may obtain transfer of property of a decedent under s. 867.03.

9 **SECTION 3.** 215.26 (8) (e) 1. of the statutes is amended to read:

10 215.26 **(8)** (e) 1. Submits an affidavit stating that the person has standing
11 under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or
12 assignment of a decedent's estate or that the person is an heir of the decedent, or was
13 guardian, as defined in s. 880.01 (3), of the decedent at the time of the decedent's
14 death, and may obtain transfer of property of a decedent under s. 867.03; and

15 **SECTION 4.** 342.17 (4) (b) 4. of the statutes is amended to read:

16 342.17 **(4)** (b) 4. The limit in subd. 3. does not apply if the surviving spouse is
17 proceeding under s. 867.03 (1g) and the total value of the decedent's solely owned
18 property in the state, including the vehicles transferred under this paragraph, does
19 not exceed \$10,000 \$20,000.

20 **SECTION 5.** 865.202 of the statutes is created to read:

21 **865.202 Transfer of interest in property. (1)** If the estate is closed under
22 s. 865.16, the personal representative may file with the probate registrar a verified
23 statement describing property in which the decedent had an interest other than an
24 interest specified in s. 865.20 or 865.201, including the recording data, if any, of the

ASSEMBLY BILL 358

1 document creating the interest, and specifying the persons to whom the property is
2 distributed. Valuations need not be set forth in the statement.

3 **(2)** Upon being filed with the probate registrar, the statement shall be
4 presumed to be evidence of the facts recited, of the termination of the decedent's
5 interest in the property listed and of the transfer of the interest in the property to
6 the persons entitled to the interest, as if a final judgment regarding the distribution
7 of the property had been issued by the court under s. 863.27. If the statement
8 describes an interest in real property or a debt that is secured by an interest in real
9 property a certified copy or duplicate original of the statement shall be recorded in
10 the office of the register of deeds in each county in this state in which the real
11 property is located.

12 **SECTION 6.** 867.01 (1) (b) of the statutes is amended to read:

13 867.01 **(1)** (b) Whenever the estate, less the amount of the debts for which any
14 property in the estate is security, does not exceed ~~\$30,000~~ \$50,000 in value and the
15 decedent is survived by a spouse or one or more minor children or both.

16 **SECTION 7.** 867.01 (3) (intro.) (except 867.01 (3) (title)) of the statutes is
17 renumbered 867.01 (3) (ac).

18 **SECTION 8.** 867.01 (3) (a) of the statutes is renumbered 867.01 (3) (am), and
19 867.01 (3) (am) (title), as renumbered, is amended to read:

20 867.01 **(3)** (am) (title) *Petition contents.*

21 **SECTION 9.** 867.01 (3) (ac) (title) of the statutes is created to read:

22 867.01 **(3)** (ac) (title) *Who may petition.*

23 **SECTION 10.** 867.02 (1) of the statutes is amended to read:

24 867.02 **(1)** AVAILABILITY. The court shall summarily assign the estate of a
25 deceased person without the appointment of a personal representative if the estate,

ASSEMBLY BILL 358**SECTION 10**

1 less the amount of the debts for which any property in the estate is security, does not
2 exceed \$30,000 \$50,000 in value and the estate cannot be summarily settled under
3 s. 867.01. An estate, administration of which has been commenced under ch. 856,
4 or a summary settlement commenced under s. 867.01 may be terminated under this
5 section at any time that it is found to meet the requirements of this section.

6 **SECTION 11.** 867.02 (2) (intro.) (except 867.02 (2) (title)) of the statutes is
7 renumbered 867.02 (2) (ac).

8 **SECTION 12.** 867.02 (2) (a) of the statutes is renumbered 867.02 (2) (am), and
9 867.02 (2) (am) (title) and 1., as renumbered, are amended to read:

10 867.02 (2) (am) (title) *Petition contents.* 1. A statement that the estate does
11 not exceed \$30,000 \$50,000 in value and cannot be summarily settled under s.
12 867.01.

13 **SECTION 13.** 867.02 (2) (ac) (title) of the statutes is created to read:

14 867.02 (2) (ac) (title) *Who may petition.*

15 **SECTION 14.** 867.03 (1g) (intro.) of the statutes is amended to read:

16 867.03 (1g) **GENERALLY.** (intro.) When a decedent leaves solely owned property
17 in this state which does not exceed \$10,000 \$20,000 in value, any heir of the decedent
18 or person who was guardian of the decedent at the time of the decedent's death may
19 collect any money due the decedent, receive the property of the decedent ~~if it is not~~
20 ~~an interest in or lien on real property~~ and have any evidence of interest, obligation
21 to or right of the decedent transferred to the affiant ~~upon furnishing~~ if the heir or
22 guardian provides to the person owing the money, having custody of the property or
23 acting as registrar or transfer agent of the evidences of interest, obligation to or right,
24 with or, if the property is an interest in or lien on real property, provides to the
25 register of deeds preliminary to the recording required under sub. (2m). proof of prior

ASSEMBLY BILL 358**SECTION 14**

1 mailed notice under sub. (1m) if applicable and ~~with~~ an affidavit in duplicate showing
2 all of the following:

3 **SECTION 15.** 867.03 (2m) of the statutes is created to read:

4 **867.03 (2m) RECORDING OF AFFIDAVIT.** (a) If an affidavit under sub. (1g)
5 describes an interest in or lien on real property a certified copy or duplicate original
6 of the affidavit shall be recorded in the office of the register of deeds in each county
7 in this state in which the real property is located.

8 (b) For purposes of a transfer under this section of an interest in or lien on real
9 property, the recording of the affidavit copy or duplicate original constitutes the
10 transfer to the affiant under sub. (1g) of the evidence of the interest in or lien on real
11 property.

12 **SECTION 16. Initial applicability.**

13 (1) This act first applies to deaths occurring on the effective date of this
14 subsection.

15 (END)